

appraisal (in existing condition) as a basis for determining the Government's bid. Except for MFH properties, if an FmHA or its successor agency under Public Law 103–354 appraiser is not available, the State Director may authorize an appraisal to be obtained by contract from a source outside FmHA or its successor agency under Public Law 103–354 in accordance with FmHA or its successor agency under Public Law 103–354 Instruction 2024–A (available in any FmHA or its successor agency under Public Law 103–354 office). For MFH properties, prior approval of the Assistant Administrator, Housing, is necessary to procure an outside appraisal.

(7) *Bidding.* The State Director will designate an individual to bid on behalf of the Government unless judicial proceedings or State nonjudicial foreclosure law provides for someone other than an FmHA or its successor agency under Public Law 103–354 employee to enter the Government's bid. When the State Director determines attendance of an FmHA or its successor agency under Public Law 103–354 employee at the sale might pose physical danger, a written bid may be submitted to the Marshal, Sheriff, or other party in charge of holding the sale. The Government's bid will be entered when no other party makes a bid or when the last bid will result in the property being sold for less than the bid authorized in paragraph (f)(6) of this section.

(i) When FmHA or its successor agency under Public Law 103–354 is the senior lienholder, only one bid will be entered, and that will be for the amount authorized by the State Director.

(ii) When FmHA or its successor agency under Public Law 103–354 is not the senior lienholder and OGC advises that the borrower has no redemption rights or if a deficiency judgment will be obtained, the State Director may authorize the person who will bid for the Government to make incremental bids in competition with other bidders. If incremental bidding is desired, the State Director's instructions to the bidder will state the initial bid, bidding increments, and the maximum bid.

(g) *Reports on sale and finalizing foreclosure.* Immediately after a foreclosure sale at which the State Director has

designated a person to bid on behalf of the Government, the servicing official will furnish the State Director a report on the sale. The State Director will forward a copy of this report to OGC and, for MFH loans, to the National Office. Based on OGC's instructions, a State supplement will provide a detailed outline of actions necessary to complete the foreclosure.

[50 FR 23904, June 7, 1985, as amended at 50 FR 45782, Nov. 1, 1985; 51 FR 4138, Feb. 3, 1986; 51 FR 45433, Dec. 18, 1986; 53 FR 27827, July 25, 1988; 53 FR 35763, Sept. 14, 1988; 56 FR 6953, Feb. 21, 1991; 56 FR 15822, Apr. 18, 1991; 57 FR 18671, Apr. 30, 1992; 57 FR 31642, July 17, 1992; 57 FR 60085, Dec. 18, 1992; 58 FR 38927, July 21, 1993; 58 FR 58648, Nov. 3, 1993; 58 FR 68725, Dec. 29, 1993; 60 FR 55147, Oct. 27, 1995; 62 FR 44396, Aug. 21, 1997]

§§ 1955.16–1955.17 [Reserved]

§ 1955.18 **Actions required after acquisition of property.**

The approval official may employ the services of local designated attorneys, of a case by case basis, to process all legal procedures necessary to clear the title of foreclosure properties. Such attorneys shall be compensated at not more than their usual and customary charges for such work. Contracting for such attorneys shall be accomplished pursuant to the Federal acquisition regulations and related procurement regulations and guidance.

(a)–(d) [Reserved]

(e) *Credit to the borrower's account or foreclosure judgment account.*

(1) *For SFH accounts.* When FmHA or its successor agency under Public Law 103–354 acquired the property, the account will be satisfied unless:

(i) In a voluntary conveyance case where the debt exceeds the market value of the property and the borrower is *not* released from liability, in which case the account credit will be the market value (less outstanding liens if any); or

(ii) In a foreclosure where the bid is less than the account balance and a deficiency judgment will be sought for the difference, in which case the account credit will be the amount of FmHA or its successor agency under Public Law 103–354's bid.

(2) *For all types of accounts other than SFH.* When FmHA or its successor

agency under Public Law 103-354 acquired the property, the account credit will be as follows:

(i) In a voluntary conveyance case:

(A) Where the market value of the property equals or exceeds the debt or where the borrower is released from liability for any difference, the account will be satisfied.

(B) Where the debt exceeds the market value of the property and the borrower is *not* released from liability, the account credit will be the market value (less outstanding liens, if any).

(ii) In a foreclosure, the account credit will be the amount of FmHA or its successor agency under Public Law 103-354's bid *except* when incremental bidding as provided for in §1955.15(f)(7)(ii) of this subpart was used, in which case the account credit will be the maximum bid that was authorized by the State Director.

(3) *For all types of accounts when FmHA or its successor agency under Public Law 103-354 did not acquire the property.* The sale proceeds will be handled in accordance with applicable State laws with the advice and assistance of OGC, including remittance of funds, application of the borrower's account credit, and disbursement of any funds in excess of the amount due FmHA or its successor agency under Public Law 103-354.

(4) *In cases where FmHA or its successor agency under Public Law 103-354 acquired security property by means other than voluntary conveyance or foreclosure.* In these cases, such as conveyance by a bankruptcy trustee or by Court Order, the account credit will be as follows:

(i) If the market value of the acquired property equals or exceeds the debt, the account will be satisfied.

(ii) If the debt exceeds the market value of the acquired property, the account credit will be the market value.

(f)-(1)

[50 FR 23904, June 7, 1985, as amended at 52 FR 41957, Nov. 2, 1987; 53 FR 27827, July 25, 1988; 53 FR 35764 Sept. 14, 1988; 55 FR 35295, Aug. 29, 1990; 56 FR 10147, Mar. 11, 1991; 56 FR 29402, June 27, 1991; 58 FR 38927, July 21, 1993; 58 FR 68725, Dec. 29, 1993; 60 FR 34455, July 3, 1995]

#### § 1955.19 [Reserved]

#### § 1955.20 Acquisition of chattel property.

Every effort will be made to avoid acquiring chattel property by having the borrower or FmHA or its successor agency under Public Law 103-354 liquidate the property according to Subpart A of Part 1962 of this chapter and apply the proceeds to the borrower's account(s). Methods of acquisition authorized are:

(a) *Purchase at the following types of sale:* (1) Execution sale conducted by the U.S. Marshal, sheriff or other party acting under Court order to satisfy judgment liens.

(2) FmHA or its successor agency under Public Law 103-354 foreclosure sale conducted by the U.S. Marshal or sheriff in States where a State Supplement provides for sales to be conducted by them.

(3) Sale by trustee in bankruptcy.

(4) Public sale by prior lienholder.

(5) Public sale conducted under the terms of Form FmHA or its successor agency under Public Law 103-354 455-4, "Agreement for Voluntary Liquidation of Chattel Security," the power of sale in security agreements or crop and chattel mortgage, or similar instrument, if authorized by State Supplement.

(b) *Voluntary conveyance.* Voluntary conveyance of chattels will be accepted only when the borrower can convey ownership free of other liens *and* the borrower can be released from liability under the conditions set forth in §1955.10(f)(2) of this subpart. Payment of other lienholders' debts by FmHA or its successor agency under Public Law 103-354 in order to accept voluntary conveyance of chattels is not authorized. Before a voluntary conveyance from a Farmer Program loan borrower can be accepted, the borrower must be sent Exhibit A with Attachments 1 and 2 of Subpart S of Part 1951 of this chapter.

(1) *Offer.* The borrower's offer of voluntary conveyance will be made on Form FmHA or its successor agency under Public Law 103-354 1955-1. If it is determined the conveyance offer can be accepted, the borrower will execute a